THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.1052 of 2007

19.1.2007

Between:

Kucharam Ramulamma, W/o.Late K.Sattaiah
And another

… Petitioners

AND

The Commissioner, Appeals,
O/o. the Chief Commissioner of Land Administration,
Andhra Pradesh, Hyderabad
And another

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.1052 of 2007

ORDER:

This writ petition is filed challenging the proceedings of the first respondent in CCLA's reference No.Hyd/26/2006, dated 25.11.2006. By the said impugned order, in exercise of powers under Section 33 of the Urban Land (Ceiling and Regulation) Act, 1976 (the Act, for brevity), the first respondent rejected the appeal preferred by the petitioners as time barred. The appeal was filed by the petitioners against final orders dated 17.5.1982 under Section 8(4) of the Act, notification under Section 10(1) issued in October, 1983, notification under Section 10(3) issued in November, 1983 and notice under Section 10(5) dated 16.10.1999 as well as panchanama dated 29.1.2000 under which the excess land admeasuring 82,259.51 Sq.mts in survey Nos.244 (part), 316, 320, 321 and 322 of Jeedimetla village of Qutbullapur Mandal in Ranga Reddy District (hereafter called, the subject land) was taken over possession.

The brief fact of the matter necessary for *in limine* disposal of the case is as follows. Kucharam Sathaiah – the husband of first petitioner and father of second petitioner; was owner of the subject land in Hyderabad Urban Agglomeration. He filed a declaration under Section 6 of the Act before the second respondent, who after following necessary procedure passed final orders and issued final statement under Section 8(4) of the Act on 17.5.1982. This was followed by notifications under Sections 10(1) and 10(3) of the Act. Ultimately notice under Section 10(5) of the Act was issued for taking possession and under proceedings dated 20.10.1999, panchanama was conducted on 29.1.2000 and possession of the land was taken. The petitioners herein preferred appeal under Section 33 of the Act against the proceedings under Sections 8(3), 8(4), 9, 10(1), 10(3), 10(5) and

10(6) of the Act, in October 2006. The first respondent, having noticed that the appeal is filed with a delay of more than six years, rejected the same *in limine*.

Learned Counsel for the petitioners strenuously contends that late Sathaiah was not aware of the passing of final orders under Sections 8(4) and 9 of the Act. After coming to know of various proceedings, Sathaiah allegedly applied for certified copies. He wanted to file appeal after obtaining those copies but they are not supplied to him. Sathaiah died on 14.1.2003 and thereafter the petitioners obtained certified copies and filed the appeal. Therefore, learned Counsel submits that from the date of knowledge, the appeal presented was within time, and the order of the first respondent is erroneous in rejecting the same. Secondly, he submits that as per the orders of the Government in G.O.Ms.No.733, dated 31.10.1988, land to the extent of Acs.5.00 in the peripheral area of Hyderabad Urban Agglomeration is to be exempted from the computation of Sathaiah and the order passed by the Special Officer suffers from this basic infirmity. **Per contra**, learned Assistant Government Pleader for Revenue (ULC) submits that the appeal was filed by the petitioners with huge delay of twenty years challenging the final orders under Sections 8(4) and 9 of the Act and that even from the date of notice under Section 10(5) of the Act, there was a delay of more than six years. He also points out that along with the appeal, the petitioners did not file any separate application seeking condonation of delay and, therefore, the impugned order is sustainable.

A perusal of the memorandum of grounds filed before the first respondent annexed to the writ petition would show that all the orders passed by the second respondent at different stages, as noticed hereinabove, are challenged in one appeal. Therefore, in effect, there was delay of more than twenty years in challenging the final statement/ final orders under Section 8(4) and 9 of the Act. Even if the petitioners' contention that they were not aware of these proceedings is true, they filed appeal with delay of more than six years after issuing the notice under Section 10(5) of the Act. Admittedly no separate application was filed seeking condonation of delay. The proviso to Section 33 of the Act empowers the appellate authority to entertain appeal after expiry of the period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing appeal in time. In this case, Sathaiah died on 14.1.2003 and if the petitioners have no knowledge of the proceedings under the Act in relation to the declaration filed by Sathaiah, they ought to have approached the appellate authority immediately. This was not done. They filed the appeal only after possession of the land was taken over in accordance with law. Therefore, this Court is not inclined to countenance the submission of

the learned Counsel for the petitioners.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO,J**)

January 19, 2007.
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